IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Crl.MC.No. 2662 of 2007()

CC.212/2005 of JUDL.MAGISTRATE OF FIRST CLASS, KOLENCHERRY

.....

PETITIONER: ACCUSED

RAMANI S.NAIR,
MANCHERRY VEEDU,
KOOVAPPADI POST,
PERUMBAVOOR.

BY ADV. SRI.S.GOPAKUMARAN NAIR

RESPONDENTS: STATE AND COMPLAINANT

---

1. STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA.

2. KOWSALYA DEVAN,
THOZHUTHUNGAL VEEDU,
VELIYAMADU.P.O, ARAKKUNNAM,
NOW RESIDING AT SOWPARNIKA,
KINGINIMATTOM.P.O
KOLENCHERRY.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2662 of 2007

Dated this the 20th day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 420 I.P.C. The said case is pending before the Judicial Magistrate of the First Class, Kolancherry as C.C.No.212 of 2005. According to the petitioner - a woman, the matter was settled long back and it was agreed by the complainant that the prosecution shall be withdrawn by her. The petitioner had not received any notice. She was under the bona fide impression that the complainant shall do the needful to bring to termination the proceedings initiated by her. Annexure-A1 joint statement was also prepared and kept with the complainant.

2. The petitioner now realises that the complainant had not done the needful and consequently the learned Magistrate has issued coercive processes against the petitioner reckoning her as an absconding accused.

3. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. Her absence/failure to appear before the learned Magistrate earlier was on account of reasons beyond her control. The petitioner is prepared to appear before the learned Magistrate and seek regular bail. But the petitioner apprehends that

the learned Magistrate may not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. In these circumstances, it is prayed that appropriate directions may be issued under Section 482 Cr.P.C in favour of the petitioner. I am satisfied, that in the peculiar facts and circumstances of the case, appropriate directions can be issued issued under Section 482 Cr.P.C. This Crl.M.C is accordingly allowed in part and the following directions are issued:

i) The warrant of arrest issued by the learned Magistrate against the petitioner shall not be executed till 30.08.07. The petitioner shall appear before the learned Magistrate or or before that date;

ii) The petitioner can move for regular bail. Her application for regular bail must be considered by the learned Magistrate on merits, in accordance with law and expeditiously - on the date of surrender itself;

iii) If the matter is settled between the parties, the petitioner can file an application for composition along with the complainant. Appropriate orders on such application for composition shall also be passed by the learned Magistrate on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-